

REMARKS

Receipt of the Office Action of October 7, 2004 is gratefully acknowledged.

The objection to claims 21, 23 and 24 is noted. These claims have been amended to recite that they are directed to a "compound arrangement" and not a "method". With this amendment the noted objection should be withdrawn.

The rejections under the judicially created doctrine of obviousness-type double patenting are noted. It is also noted, however, that a terminal disclaimer was filed in response to the prior Office Action relative to the earliest of the three related patents cited by the examiner. In addition, terminal disclaimers were filed in the latter two of the three noted patents so that the patent to be issued from this application cannot extend beyond the term of any of the three noted patents.

The rejection of claims 1-4 and 9-50 under 35 U.S.C. § 102(b) over Hussain et al., and the rejection of claims 1-8 and 13-54 are unpatentable over Lynnworth in view of Kluczynski under 35 U.S.C. 103(a) are respectfully traversed.

In discussing Hussain et al, the examiner states that "Hussain teaches a Coriolis mass flow meter." Applicant agrees. The examiner then states that the "components[are]by brazing ...under compression (col 3 line 1 - 16)." Applicant disagrees. Nowhere in col. 3, lines 1 - 16 of Hussain et al is there a mention of a compressive force created by brazing of the components. The mere fact that one metal is connected to another metal by "welding or hard soldering" (col. 3, lines 8 and 9 of Hussain et al) does not mean that the connection produces compression. For compression to exist it would be necessary for there to be a specific mention thereof in Hussain et al, and there is not such a specific mention.

Hussain et al does mention that "the pipeline 1 may be arranged under tension.."

(col. 3, line 21 of Hussain et al). But tension is not compression and the means for producing the tension, which is not disclosed, need not, and in fact would not be expected to, produce compression. According to the present invention, **the second component exerts compressive stress on said external surface of the first component**. In Hussain et al, the two components are joined but it **cannot** be concluded that the joining **exerts compressive stress**. Without this teaching in Hussain et al, Hussain et al cannot, it is respectfully submitted, anticipate claim 1, or claims 2 - 4 which depend therefrom. Each and every positively recited limitation must be found in a single reference for anticipation to apply. See, *In re Bond*, 910 F2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

The same conclusion is reached relative to the other claims rejected as anticipated by Hussain et al, since they too recite the **compressive stress** feature. See independent claims 9 - 12 and 42. Then with respect to method claims 13, 19 and 36, the compressive stress is recited as produced by providing a relationship of diameters so that when joined, the second component exerts the compressive force on the first component.

The application of a compressive stress is a positive and conscience procedure and not one that would inherently result from a welding or hard soldering application

In the examiner's Response to Arguments found on page 5 of the Office Action, the examiner states that Hussain et al ".....shows a finished product, which is essentially the same as the instant invention." Applicant cannot agree. A joint where a compressive force is created between components is not the same as one where there is no indication that a compressive force exists. **All joints are not equal**. It is not enough to count parts. We must consider the nature of the parts. The examiner also states that "....identical products can be formed using different fabrication methods and still have the same properties." Perhaps, but the point here is that 35 USC 102 requires that the similar properties be specifically identified in the single reference; and


that is lacking here.

The conclusion reached with respect to Hussain et al, can also be applied to the combination of Lynnworth and Kluczynski, that is, while the compressive force feature need not be disclosed in the individual references, it must be at least suggested by the **combination**. See, *In re Mills*, 916 F2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant has not found the suggestion in the combination.

In view of the foregoing, entry of the above amendment to claims 21, 23 and 24, withdrawal of the double patenting rejections and allowance of claims 1 - 54 indicated.

Respectfully submitted,

Date: January 7, 2005



Felix J. D'Ambrosio
Registration No: 25,721

Customer Number 23364
BACON & THOMAS
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Phone: (703) 683-0500

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